

Notice of Allowability

Application No.

09/377,629

Examiner

Eric B. Kiss

Applicant(s)

CURTIS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the reply filed 9 September 2005.
2. ☒ The allowed claim(s) is/are 1,3,4,6-10,12,13,15-19,21,22 and 24-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached.
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ~~20050909~~ **9-12-05**
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


TUAN DAM
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. The reply filed 9 September 2005 has been received and entered. Claims 1, 3, 4, 6-10, 12, 13, 15-19, 21, 22, and 24-27 are pending.

Information Disclosure Statement

2. Applicant has submitted a Korean-language document for consideration by the Examiner.

Each information disclosure statement must include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information listed that is not in the English language. The concise explanation may be either separate from the specification or incorporated therein with the page(s) and lines of the specification where it is incorporated being noted in the IDS.

It is noted that Applicant has submitted an English-language document (WO 92/15942), the front page of which has also been attached to the Korean-language document. It is further noted that the Figures present in the Korean-language document appear to correspond to Figures 1-3 of the English-language document. The Examiner assumes from this information that the English-language document is an equivalent to the Korean-language document.

“The duty of candor does not require that the Applicant translate every foreign reference, but only that the Applicant refrain from submitting partial translations and concise explanations that it knows will misdirect the Examiner’s attention from the reference’s relevant teaching.” See *Semiconductor Energy Laboratory Co. v. Samsung Electronics Co.*, 204 F.3d 1368, 54 USPQ2d 1001 (Fed. Cir. 2000).

The information contained in the Korean-language document has been considered ONLY to the extent that such information is also contained in the English-language document (WO 92/15942). The WO 92/15942 is assumed to reflect the most relevant teachings contained within the Korean-language document, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information listed.

Response to Amendment

3. Applicant's amendments to the specification appropriately address the objection to the specification based on improper usage of trademarks. Accordingly, this objection is withdrawn in view of Applicant's amendments.

4. Applicant's amendments to claim 19 appropriately address the rejection of claims 19 and 21-27 under 35 U.S.C. §101, based on non-statutory subject matter. Accordingly, this rejection is withdrawn in view of Applicant's amendments.

Allowable Subject Matter

5. Claims 1, 3, 4, 6-10, 12, 13, 15-19, 21, 22, and 24-27 are allowed.

6. The following is an examiner's statement of reasons for allowance: Applicant's amendments to the claims are consistent (although not identical) to the amendment proposed by the Examiner on 6 July 2005. The prior art of record fails to expressly teach or fairly suggest making a selection from a set of native operating system commands (for retrieving a variable

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maintained by the operating system) for different types of operating systems, and the application being executable on each of the different operating systems, in combination with the remaining limitations of independent claims 1, 10, and 19. Claims 3, 4, 6-9, 12, 13, 15-18, 21, 22, and 24-27 are considered allowable at least by virtue of their dependence on allowable claims 1, 10, and 19.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric B. Kiss whose telephone number is (571) 272-3699. The Examiner can normally be reached on Tue. - Fri., 7:00 am - 4:30 pm. The Examiner can also be reached on alternate Mondays.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tuan Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature should be directed to the TC 2100 Group receptionist: 571-272-2100.

EBK / *EBK*
September 23, 2005


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